

REMARKS/ARGUMENTS

The Applicants have carefully considered this application in connection with the Office Action and respectfully request reconsideration of this application in view of the foregoing amendment and the following remarks.

The Applicants originally submitted Claims 1-15 in the application. Claims 6 and 12-15 were cancelled pursuant to a first restriction requirement. Claims 7-11 were withdrawn pursuant to a second restriction requirement. Claims 19-20 were withdrawn by the Office in the April 16 Action pursuant to a third restriction requirement. In previous responses, Claims 1, 3-5, 7-11, 19 and 20 were amended, Claim 2 was cancelled, Claims 16-21 were added, Claims 22 and 23 were added and simultaneously withdrawn and claims 24 -26 were added. Presently, the Applicants amend Claims 1, 24-26 without prejudice or disclaimer. To correct a typographical error the Applicants also amend the written description as provided herewith. Accordingly, Claims 1, 3-5 and 16-18, 21 and 24-26 are currently subject to examination.

I. Allowed Subject Matter

The Applicants acknowledge with appreciation that the Office has rejoined Claims 19 and 20, and has allowed Claims 1, 3-5 and 16-21.

II. Applicant-Initiated Interview

The Examiner and the Applicants' undersigned representative discussed various aspects of the case in a telephone conversation on December 22, 2009. Among the topics discussed was the rejection of Claim 24. The scope of the discussion included the interrelationship of the elements of Claim 24 with the elements of Claim 1, and support for various elements of these claims. Relevant

support discussed includes the following, where the reference in parentheses refers to the paragraph of the published application corresponding to the cited page and line of the description as filed.

- 1) Page 9, lines 21-22 (§ [0031]) for a liquid in a closed cell being the electrolyte liquid.
- 2) Page 10, lines 7-9 (§ [0032]) for a fluid including gases and liquids that could be disposed within cells of the feature pattern.
- 3) FIG. 9C and 12C, and associated text appearing at page 11, lines 5-20 (§ [0033]), with specific attention to lines 14-16 for the electrolyte liquid being controlled within cells of the feature pattern to reversibly change a degree of penetration of the feature pattern by the electrolyte liquid.

The Examiner indicated that based on this discussion it is likely that the rejection of Claim 24 for lack of utility will be withdrawn. The Applicants' representative conveys his sincere appreciation to the Examiner for the courtesies extended during this discussion.

III. Rejection of Claim 24 under 35 U.S.C. § 101

The Office has rejected Claim 24 under 35 U.S.C. § 101 on the basis that the disclosed invention is inoperative and therefore lacks utility. As described above, the Examiner has indicated that after further review it is likely that the rejection of Claim 24 for lack of utility will be withdrawn. Accordingly, the Applicants respectfully request that the Office withdraw the rejection of this claim under 35 U.S.C. § 101 and issue a notice of allowance for this claim.

IV. Rejection of Claims 24-26 under 35 U.S.C. § 112, second paragraph

The Office rejects claims 24-26 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants

regards as the invention. Each of claims 24-26 inadvertently claim a method. The Applicants herein amend Claims 24-26 to be directed to a battery, thereby obviating the rejection. Accordingly, the Applicants respectfully request that the Office withdraw the rejection of these claims under 35 U.S.C. §112, second paragraph issue a notice of allowance for these claims.

V. Conclusion

In view of the foregoing amendment and remarks, the Applicants now see all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicit a Notice of Allowance for Claims 1, 3-5 and 16-21 and 24-26.

The Applicants request the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

HITT GAINES, P.C.

A handwritten signature in black ink, appearing to read "Andrew R. Ralston".

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